IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CIVIL APPLICATION NO.516 OF 2006

In

WRIT PETITION NO.2620 OF 2000

Shri Bhiku Laxman Lanjekar, since
deceased through his legal heirs:
Smt.Pushpa Bhiku Lanjekar & Anr. : Applicants
(Orig.Deft.tenant)

V/s.

Dr.Vikram Shantaram Ghole : Respondent
(Orig.Pltff.landlord)

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Mr.Balkrishna D. Joshi for the applicants.

Mrs.C.S.Radia for the respondent.

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CORAM : S.A.BOBDE, J.

DATE : SEPTEMBER 07, 2007.

P.C.

1. This is an application for condonation of delay in applying for restoration of the petition which was dismissed without reference to Court. For non-removal of office objection, common order made on 3.8.2001 resulted in dismissal of the petition on 2.10.2001. The original petitioner had died and the widow, who appears to be

illiterate, eventually contacted her Advocate some time in the year 2002. The Advocate filed an application for bring L.Rs. on record which appears to have been accepted by the Registry, though the matter stood dismissed. It appears that ignorance on the part of the applicants persisted and when the Advocate started making inquires as to why the matter was not appearing on board, eventually, he came to know some time in the year 2005 that the matter has already been dismissed and, thereafter, this application is preferred.

2. Ms Radia, the learned counsel for the respondent, strenuously submitted that it was not necessary for the applicants to give all the details pertaining to the reason why this application was not moved from the year 2002 to 2005. There is some substance in this contention. However, the undisptued facts are that the application for bringing L.Rs. on record was accepted by the office and it was possible for the applicants to believe that the matter is pending. Since the fact of dismissal had occurred long ago and since the application for bringing L.Rs. was accepted, there was no reason for the applicants to know the fact that the matter has already been dismissed. Having regard to the circumstances of the case, which are different from the circumstances in the case of Nivruti G. Ahire v. State of Maharashtra (2007

(4) All MR 347), I consider it appropriate in the interest of justice to set aside the dismissal and restore the petition to file. Order accordingly.

3. The Civil Application stands disposed of.

S.A. BOBDE, J.